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SUBJECT: UNSC WELCOMES LATEST BRAMMERTZ REPORT BUT DIFFERS
ON ASSESSMENTS OF SYRIAN COOPERATION WITH INVESTIGATION

REF: STATE 162320

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This is a corrected copy of USUN 1900.

11. (SBU) Summary. During a public briefing to the UNSC on September 29, UN International Independent Investigation Commission (UNIIIC) Head Serge Brammertz hewed closely to the contents of his latest report to the UNSC to document progress in the investigation into the murder of former Lebanese Prime Minister Rafiq Hariri. Asserting that Hariri likely had been killed by a male suicide bomber in his 20s, Brammertz reaffirmed that the Commission is developing its case to an "evidentiary standard" sufficient for an international tribunal, and asserted that the other 14 attacks carried out in Lebanon since October 2004 had not been carried out by 14 separate groups. Brammertz described Syrian cooperation with UNIIIC as "generally satisfactory" and asked for assistance from member states to protect witnesses, provide information, and supply qualified personnel to the Commission. Brammertz was similarly tight-lipped during closed consultations with UNSC members after his public briefing, but outlined his expectation that the investigation of the other 14 cases would confirm links between those attacks and the Hariri assassination.

12. (SBU) Summary, cont'd. During a separate bilateral meeting with Ambassador Bolton on September 27, Brammertz confided that the same cell phone numbers had been used before several of the other 14 attacks. He confessed he was unsure if the investigation would conclude by June 2007 or if it would need an additional year, but saw no problem with the UN and Lebanese establishing the tribunal soon. Brammertz did warn against hiring judges too soon, however, lest the Lebanese force the issue of four generals incarcerated on UNIIIC's advice before the prosecutor can argue those cases. He confirmed it would be "extremely difficult" for him to remain at UNIIIC beyond December 2006, but pledged to help identify a successor.

13. (SBU) Summary, cont'd. Speaking during closed consultations, most member states welcomed the progress UNIIIC had achieved. Russia, however, argued against "artificially" forcing the investigation forward and decried the willingness of other UNSC members to treat preliminary observations as facts. Slovakia and Denmark joined P-3 delegations in highlighting the "variable" quality of answers given by Syrian witnesses to insist that the SARG meet UNSCR demands by "fully and unconditionally" cooperating with the Commission, but Russia, Qatar, Argentina, Japan, Greece, and Tanzania welcomed Syria's "generally satisfactory" cooperation. France and the UK joined Ambassador Sanders in

arguing that the Council would need to ensure the tribunal to try those responsible for Hariri's murder enjoys the same authorities provided to the Commission. During the public meeting, Syrian PR Bashar Ja'afari argued that the Commission should consider "war crimes" supposedly perpetrated by Israel against Lebanon as well as the killing of the Mazjoub brothers (reportedly members of Palestinian Islamic Jihad) in Lebanon in May 2006. Due to differences in assessments of Syrian cooperation with the Commission, the Council adopted a general press statement welcoming Brammertz's report and reaffirming the UNSC's support for the UNIIIC. End Summary.

Brammertz Hews Closely to Report in Public...

14. (U) During his public briefing to the UNSC, Brammertz hewed closely to the contents of his latest report to the Council in describing the progress UNIIIC had achieved over the past three months. He said several of the human remains discovered at the blast site point to a male in his early 20s as the suicide bomber and reported that the Commission is trying to determine the bomber's regional origin through DNA and dental examinations. Brammertz suggested that Rafiq Hariri had been the subject of surveillance and possibly earlier assassination attempts, and that the bombing team knew enough to evade the counter-measures Hariri's security employed to protect him. Turning to investigations into the other 14 attacks, the Commissioner argued that these attacks were not commissioned and executed by 14 separate groups. He underscored his assessment that Syrian cooperation with UNIIIC continued to be "generally satisfactory," and during the public briefing did not repeat charges in his report that the quality of cooperation given by Syrian witnesses had been "variable." Brammertz concluded his public briefing by appealing to member states to respond quickly to UNIIIC's requests for assistance, to help in protecting the Commission's witnesses, and to ensure that the Commission can

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recruit and retain qualified personnel.

...And Offers Little More in Private

15. (SBU) Responding to questions from member states during closed consultations after his briefing, Brammertz offered only a few more details about the status of his investigation. Asked whether Syrian cooperation had been "full and unconditional," Brammertz highlighted the sensitivity of this issue to defend his earlier characterization that it had been "generally satisfactory." The SARG had answered all 11 requests put to it by the Commission in a timely fashion and had provided all documentation requested, Brammertz reported. Interviews with Syrian witnesses had been well-organized logistically, he continued, but the level of individual cooperation had been "variable." Brammertz deferred all questions about the timing of the establishment of a tribunal and its location to the Secretariat and the GOL. In response to interventions by Russia and Japan, among others, he shared his expectation that investigations into the other 14 attacks would confirm links between those cases and the Hariri case -- a "complementarity" that should reassure members who prefer the Commission's focus remain on the Hariri investigation.

Brammertz Meeting with Amb. Bolton

16. (SBU) Brammertz was a bit more forthcoming during a bilateral meeting with Ambassador Bolton and poloff (notetaker) on September 27. Explaining that the same cell phone numbers had been used before several of the other 14 attacks, Brammertz expressed optimism that the Commission would be able to use this evidence to establish links in court. He said he could not predict whether the investigation would conclude by June 2007 or need an

additional year, but expressed confidence that it was making steady progress. Despite the uncertainty about the timeline for the investigation, Brammertz said he had no problem if the Lebanese decided -- for "symbolic political reasons" -- to establish the tribunal soon. But he warned that hiring judges could force the issue of the four Lebanese generals detained on the recommendation of former UNIIIC head Detlev Mehlis. The Lebanese would immediately ask the tribunal to rule on their fate, Brammertz predicted, but the prosecutor would not yet have enough evidence to argue the case against them. He suggested, therefore, that the UN establish the tribunal on paper to satisfy the Lebanese, but wait to set it up in practice until the investigation is further along.

17. (SBU) Asked whether he planned to stay on as UNIIIC head after his current term expires in December 2006, Brammertz said it would be "extremely difficult" to secure another extension of his leave from the International Criminal Court.

Ambassador Bolton told Brammertz the U.S. would want him to remain at UNIIIC and urged him find a way to stay. But if that proves impossible, Ambassador Bolton urged Brammertz to help identify a successor to ensure the Commission suffers no gap in leadership. Pledging to do his part on that front, Brammertz predicted it would be easier to attract and retain personnel to the Commission now that the establishment of a tribunal appeared likely. Although the Commission still faces the "normal problems" of recruitment, Brammertz recalled the strong support he has received from SYG Annan and Secretariat staff. He expressed hope that he would be able to convince the UN controller to authorize longer-term employment contracts for UNIIIC staff than the standard UN six-month duration.

Predictable Lebanese and Syrian Responses

18. (U) Speaking after Brammertz during the September 29 briefing to the Security Council, Lebanese Charge d'Affaires Caroline Ziade thanked Council members for supporting the Commission's work and welcomed progress achieved thus far in the investigation. She expressed hope that "cooperation with all relevant parties would continue and improve." Turning to negotiations between the Government of Lebanon and the UN Secretariat on the draft treaty to establish the Hariri

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tribunal, Ziade reported that establishment of the court enjoys wide support within Lebanon and that it embodies the hope that Lebanon will no longer be victim to political assassinations. Urging the Security Council to approve the establishment of the tribunal quickly, she emphasized that Lebanon would continue to insist that the whole truth behind

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Hariri's murder and other crimes be uncovered.

19. (U) Syrian PermRep Bashar Ja'afari, who continued the SARG's practice of requesting to speak at every public UNSC meeting on the UNIIIC, welcomed Brammertz's report and pledged the SARG would continue to cooperate with the Commission as long it remained "professional and expert." He noted UNIIIC's observation that Syria's cooperation had been satisfactory and warned against "attempts by some in the region and beyond" to exploit the UNIIIC process by jumping to "prefabricated" conclusions and providing unsupported information. Underscoring the need to examine "new hypotheses" regarding the assassination, Ja'afari charged that those who had provided false testimony should be held to account. Turning to the Commission's investigations into the other 14 attacks, he argued UNIIIC should also investigate "war crimes" allegedly committed by Israel during the recent war in Lebanon as well as the May 2006 assassination of the two Mazjoub brothers in Lebanon. (Note: The Mazjoub brothers were reportedly members of Palestinian Islamic Jihad. End Note.)

Most Council Members Welcome UNIIIC Progress

¶10. (SBU) Most Council members, with the notable exception of Russia, expressed satisfaction with the Commission's progress, particularly given the challenges imposed by the Commission's temporary relocation to Cyprus during the recent war. France, the UK, and Denmark joined Ambassador Sanders in commending UNIIIC's efforts to develop its cases to an evidentiary standard required by an international tribunal and expressed support for the Commission's efforts to explore links between the 14 other cases and the Hariri investigation. Qatar also urged the Commission to follow up on leads related to the other 14 attacks. Russian PR Churkin, however, stated that the Commission should not be made to "artificially" force its investigation forward. Declaring that the UNIIIC's conclusions are only preliminary and could be modified based on new evidence, Churkin cautioned his colleagues not to take these observations as facts before a tribunal decides on their validity. He also underscored Russia's view that the Commission should be primarily dedicated to investigating the death of Rafiq Hariri and asserted that its mandate is only to extend technical assistance to the GOL in its investigations into the other 14 attacks. Japanese PR Oshima agreed that the priority of the Commission's work should focus on the Hariri case.

But Differ on Assessments of Syrian Cooperation

¶11. (SBU) France, the UK, Slovakia, and Denmark joined Ambassador Sanders in highlighting the Commission's observation that the quality of answers provided by Syrian witnesses had been "variable" and calling on the SARG to "fully and unconditionally" cooperate with the UNIIIC as required by UNSCRs. On the other hand, Russia, Qatar, Argentina, Japan, Greece, and Tanzania welcomed the Commission's assessment that Syrian cooperation had been "generally satisfactory" and expressed hope that such cooperation would continue. Russian PR Churkin lamented the Council's inability to "objectively reflect" Syrian cooperation in a statement to the press (see below). China struck a compromise position by encouraging the SARG to comply with the relevant UNSCRs by continuing to satisfactorily cooperate with the Commission.

P-3 Lay Down Marker on Tribunal

¶12. (SBU) Deploying reftel points, Ambassador Sanders observed that as the UNSC prepares to consider the draft treaty establishing the Hariri tribunal, that it must ensure that the tribunal has the authority it needs to do its job effectively. Noting that the Commission was working to provide the best possible basis for the tribunal to conduct its work, French PR de la Sabliere expressed "no doubt" about the Council's "common determination" to live up to its responsibilities in this regard as well. British PR Jones-Parry echoed Ambassador Sanders' statement that the tribunal must have the same authority the Commission currently enjoys.

Council Issues Brief Press Statement

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¶13. (U) After the meeting, the Greek PR (as President of the UNSC) read out the statement below to the press on behalf of all the members of the Council. The French had earlier circulated a more detailed press statement that noted the Commission's observations about linkages between the other 14 cases as well as preparations to establish the tribunal, but the Russians, Chinese, Qataris, and Argentines insisted on

language effectively praising Syrian cooperation with the Commission. Since member states could not reach agreement on a more detailed statement, the Council agreed on the general statement below:

"The members of the Security Council received a briefing today from Commissioner Serge Brammertz on the fifth report of the International Independent Investigation Commission on the assassination of former Prime Minister of Lebanon Rafiq Hariri.

The members of the Security Council welcomed the report and commended Mr. Brammertz and his team for their outstanding professional work.

The members of the Security Council are encouraged by the report's conclusion that progress has been made in all investigative areas.

The members of the Security Council reiterated their unwavering support for the Commission and its central role in identifying the perpetrators, organizers, and sponsors of the assassination of former Prime Minister of Lebanon Rafiq Hariri so that they can be brought to justice.

The members of the Council also reiterated their support for the Commission in extending further its technical assistance to the Lebanese authorities in their investigation into the other attacks perpetrated in Lebanon since 1 October 2004, in accordance with its mandate established by the Security Council resolutions.

They stand ready to assist the Commission as necessary."
BOLTON